

Message Text

UNCLASSIFIED

PAGE 01 GENEVA 11184 01 OF 02 291812Z

ACTION STR-05

INFO OCT-01 IO-14 ISO-00 STRE-00 FEA-01 AGRE-00 CEA-01

CIAE-00 COME-00 DODE-00 EB-08 FRB-01 H-02 INR-07

INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00

AID-05 SS-15 ITC-01 TRSE-00 USIA-15 PRS-01 SP-02

OMB-01 AF-10 ARA-14 EA-12 EUR-12 NEA-10 /157 W

-----001022 291952Z/43

P 291741Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3540

UNCLAS SECTION 01 OF 02 GENEVA 11184

USMTN

ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

E.O.11652: N/A

TAGS: ETRD, GATT, MTN

SUBJECT: FRAMEWORK GROUP--INTERIM DISCUSSION OUTLINE ON
EXPORT CONTROLS

REF: A) GENEVA 10388, B) GENEVA 8836

1. PURSUANT TO REF A, WE PROVIDE BELOW A PRELIMINARY
OUTLINE OF DISCUSSION POINTS RELATED TO FRAMEWORK GROUP
(FG) TOPIC ON EXPORT CONTROLS. SUBJECT TO ANY FURTHER
GUIDANCE FROM WASHINGTON, WE WOULD PLAN TO USE OUTLINE
AS AN INTERIM DEVICE, FOR EARLY KICKOFF OF PLUTILATERAL
DISCUSSIONS GEARED TOWARD (A) ASSURING OTHERS THAT U.S.
OBJECTIVES IN THIS AREA ARE LIMITED AND SPECIFIC, AND (B)
ESTABLISHING APPROPRIATE BASIS FOR ACTIVE PARTICIPATION
BY OTHER DELS. FIRST OF THESE PLURILATERAL SESSIONS
ON EXPORT CONTROLS NOW SCHEDULED FOR DECEMBER 2.

UNCLASSIFIED

UNCLASSIFIED

PAGE 02 GENEVA 11184 01 OF 02 291812Z

2. BEGIN TEXT: INTERIM DISCUSSION OUTLINE ON FRAMEWORK
TOPIC NO. 5 (EXPORT CONTROLS):

I. OBJECTIVES OF DISCUSSION:

A. TO EXAMINE EXISTING GATT PROVISIONS AS THEY
RELATE TO EXPORT CONTROLS, WITH A VIEW TO CLARIFYING

THEIR MEANING AND IDENTIFYING AREAS IN WHICH FURTHER REVIEW WOULD BE USEFUL; AND

B. TO IDENTIFY IMPROVEMENTS BUILDING ON THOSE PROVISIONS WHICH, INSOFAR AS POSSIBLE, MIGHT ALLEVIATE THE UNCERTAINTY, UNPREDICTABILITY, LACK OF CONFIDENCE AND FEAR OF ARBITRARINESS SURROUNDING CURRENT APPLICATION OF EXPORT CONTROLS.

II. SUBJECTS EXCLUDED FROM DISCUSSION:

- A. NO DISCUSSION IN FG OF OBLIGATIONS TO GUARANTEE SUPPLIES;
- B. NO DISCUSSION OF ABSOLUTE PROHIBITIONS ON EXPORT CONTROLS;
- C. NO EXAMINATION OF DOMESTIC POLICY MEASURES ON INVESTMENT, PRODUCTION OR STOCKPILING;
- D. NO DISCUSSION WHICH WOULD QUESTION NATIONAL SOVEREIGNTY OVER NATURAL RESOURCES;
- E. NO ATTEMPT TO NEGOTIATE SPECIFIC "SUPPLY ACCESS" COMMITMENTS IN FG.

III. SUMMARY OF U.S. VIEWS ON GATT PROVISIONS RELEVANT TO USE OF EXPORT CONTROLS:

A. MUCH OF BASIC GATT REGULATORY SCHEME APPLIES
UNCLASSIFIED

UNCLASSIFIED

PAGE 03 GENEVA 11184 01 OF 02 291812Z

AT A GENERAL LEVEL TO BOTH IMPORTS AND EXPORTS.

B. EXPORT TAXES AND DUTIES ARE PERMITTED, SUBJECT TO GENERAL MFN CLAUSE AND WITH THE EXPECTATION THEY WOULD BE SUBJECT TO NEGOTIATION; HOWEVER, GATT PROVISIONS ON NATIONAL TREATMENT, EMERGENCY ACTION, AND RENEGOTIATION OF CONCESSIONS HAVE NOT BEEN APPLIED TO EXPORTS.

C. PROHIBITIONS OR RESTRICTIONS OF EXPORTS OTHER THAN WITH DUTIES, TAXES, OR OTHER CHANGES ARE PROHIBITED, EXCEPT WHEN JUSTIFIED UNDER SPECIFIC EXCEPTIONS OF ARTICLES XI, XX, OR XXI.

D. MEANING OF KEY PHRASEOLOGY IN THOSE EXCEPTIONS NEEDS TO BE EXAMINED, GIVEN LACK OF MUCH CASE HISTORY AND ABSENCE OF ANY REGULAR NOTIFICATION/REVIEW/EVALUATION OF MEASURES TAKEN.

E. SPECIFIC GATT PROVISIONS RELEVANT TO USE OF EXPORT CONTROLS CONTAINED IN ARTICLES I, II, VII, VIII, X, XI, XIII, XIV, XV, XVII, XX (AT LEAST PARAS G, H, I AND J), XXI, XXIV, XXVIII AND XXVIII BIS.

IV. CRITERIA FOR STRENGTHENING OF GATT PROVISIONS:

A. EMPHASIS ON FAIR ADMINISTRATION OF EXPORT CON-

TROLS USED.

B. GENERALLY AIM FOR GREATER PRACTICAL COMPARABILITY
BETWEEN DEGREE OF DISCIPLINE APPLIED TO EXPORT CONTROLS
AND THAT APPLIED TO IMPORT CONTROLS.

V. POINTS FOR FURTHER DISCUSSION:

- A. REGULAR NOTIFICATION, INCLUDING THIRD-PARTY;
- B. CONSULTATION;
- C. GATT REVIEW;
- D. NON-DISCRIMINATION;
- E. TEMPORARINESS;
- F. DEGRESSIVITY;
- G. USE OF EMBARGOES;

UNCLASSIFIED

NNN

UNCLASSIFIED

PAGE 01 GENEVA 11184 02 OF 02 291812Z
ACTION STR-05

INFO OCT-01 IO-14 ISO-00 STRE-00 FEA-01 AGRE-00 CEA-01
CIAE-00 COME-00 DODE-00 EB-08 FRB-01 H-02 INR-07
INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-02 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 USIA-15 PRS-01 SP-02
OMB-01 AF-10 ARA-14 EA-12 EUR-12 NEA-10 /157 W
-----001026 291952Z /43

P 291741Z NOV 77

FM USMISSION GENEVA

TO SECSTATE WASHDC PRIORITY 3541

UNCLAS SECTION 02 OF 02 GENEVA 11184

USMTN

ACTION STR FOR GREENWALD, LANDE, MATTHEISEN

H. SHARING OF SHORT-SUPPLY BURDENS.

END TEXT.

3. ABOVE TEXT DRAWN LARGELY FROM POINTS ALREADY MADE
BY U.S. IN FG (MTN/FR/W/2) AND OUR PREPARATIONS FOR
BILATERAL WITH CANADIAN DEL LAST SPRING (GENEVA 2373),
AND HAS BEEN SATISFACTORILY "TEST FLOWN" IN SEVERAL
RECENT BILATERALS. THUS, FOLLOWING GENERAL TALK ALONG
THESE LINES IN PLURILATERAL SETTING (AND SOME FURTHER
REFINEMENT OF U.S. THINKING ON THE SUBJECT), WE SHOULD

BE IN POSITION TO DEVELOP MORE DETAILED AND COMPREHENSIVE
DISCUSSION OUTLINE SIMILAR TO THAT PROVIDED IN GENEVA
10605 ON BOP MEASURES.

4. DRAFTED BY MARK. CULBERT

UNCLASSIFIED

NNN

Message Attributes

Automatic Decaptoning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: EXPORT CONTROLS, COMMITTEE MEETINGS, MEETING REPORTS
Control Number: n/a
Copy: SINGLE
Sent Date: 29-Nov-1977 12:00:00 am
Decaption Date: 01-Jan-1960 12:00:00 am
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1977GENEVA11184
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Expiration:
Film Number: D770442-0404
Format: TEL
From: GENEVA USMTN
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1977/newtext/t19771110/aaaaahpx.tel
Line Count: 174
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 1447ae0d-c288-dd11-92da-001cc4696bcc
Office: ACTION STR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 77 GENEVA 10388, 77 GENEVA 8836
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 08-Feb-2005 12:00:00 am
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 383333
Secure: OPEN
Status: NATIVE
Subject: FRAMEWORK GROUP--INTERIM DISCUSSION OUTLINE ON EXPORT CONTROLS
TAGS: ETRD, GATT, MTN
To: STATE
Type: TE
vdkvgwkey: odbc://SAS/SAS.dbo.SAS_Docs/1447ae0d-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009